



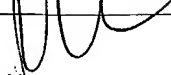
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,424	08/01/2003	Andre Gemeinhardt	4452-563	4529
27799	7590	10/04/2004		
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			EXAMINER LAZO, THOMAS E	
			ART UNIT 3745	PAPER NUMBER

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,424	<b>Applicant(s)</b> GEMEINHARDT ET AL. 	
	<b>Examiner</b> Thomas E. Lazo	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 7-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/1/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Franchi (1,456,727). Franchi discloses a cylinder with an inherent housing, a piston 10 axially moveably arranged in the housing, and a piston rod 22 having a ball-shaped head 21 and connected to the piston 10, wherein the piston 10 has a piston shaft sleeve 17 and first and second support elements 19,20 forming a spherical socket supporting the ball-shaped head 21 so that the spherical socket and the ball-shaped head 21 form a ball joint, the first and second support elements 19,20 are supported by the piston shaft sleeve 17 against forces introduced by the piston rod 22 such that the piston 10 and the piston rod 22 are connected to each other essentially without play and are swivelable relative to each other at the ball joint, the first support element 19 has a hemispherical shell enclosing one half of the ball-shaped head 21 which faces away from the piston rod 22, the second support element 20 has a spherical-segment-shaped ring defining an opening through which the piston rod 22 passes, and supporting the other half of the ball-shaped head 21, the piston shaft sleeve 17 has a closed bottom formed by enlargement 16, the first support element 19 is supported axially against the closed bottom of the piston shaft sleeve 17, the second support element 20 has a contact surface 23 contactable by the piston rod

Art Unit: 3745

22 for limiting the swiveling movement of the piston rod 22 at the ball joint, the first and second support elements 19,20 form a support frame for the piston shaft sleeve 17, and the piston shaft sleeve 17 is a thin-walled part.

The statement of "A master cylinder for a hydraulically actuated clutch or brake system in a motor vehicle" has been treated as an intended use for the claimed invention and has not been considered a limitation in the claims.

The patentability of a thin-walled part does not depend on the deep drawing process of claims 14 and 15. See MPEP § 2113 Product-by-Process Claims.

#### *Allowable Subject Matter*

Claims 3-5 and 7-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Prior Art*

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of five patents.

Welter et al. (6,470,791), Adler et al. (6,336,329), Bergelin et al. (5,499,570), Osterfeld et al. (5,290,120), and Kehl et al. (4,650,363) are cited to show cylinders with ball joint supporting arrangements.

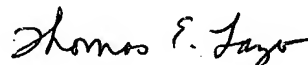
Art Unit: 3745

***Contact Information***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (703) 308-2285. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (703) 308-1044. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be direct to the Group receptionist whose telephone number is (703) 308-0861.



Thomas E. Lazo  
Primary Examiner  
Art Unit 3745

TEL

September 30, 2004